

Claimant testified that he injured his back and shoulder on either March 30 or April 1, 1999, when he fell from a ladder in the course of his duties for respondent. Claimant was not certain of the exact day the accident occurred but did recall that he was working on a home belonging to the brother of Doug Harlan. He testified that he gave notice immediately to Paul Murphy and further testified that the owner of the home saw the accident.

Respondent presented affidavits of Larry Murphy, Chris Murphy, and Doug Harlan. Respondent did not present affidavits from Paul Murphy, the supervisor claimant testified he gave notice of injury to. Respondent also does not present an affidavit or testimony from the owner of the home where claimant testified he was working or the coworker claimant testified was present at the time. The affidavits from Chris Murphy and Larry Murphy indicate generally that they were aware of an incidence where claimant slipped on a ladder and spilled paint. They state generally, however, claimant did not notify them or any other employee of Murphy & Sons that he was injured. The affidavit of Larry Murphy states the claimant was working on the home of Doug Harlan on the day of the incident. The affidavit of Doug Harlan indicates that he observed claimant the day after the alleged accident working in a normal fashion and also observed the claimant jump over a waist-high chain-link fence.

The Administrative Law Judge observed the claimant testify and after doing so accepted the testimony over the affidavits. The Board generally defers to the assessment of credibility made by an Administrative Law Judge who has observed the witness testify. The Board also notes that in this case the claimant's testimony reads as straightforward and credible testimony. For these reasons, the Appeals Board finds and concludes that the Order by the Administrative Law Judge should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Julie A. N. Sample on June 21, 1999, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of August 1999.

BOARD MEMBER

c: Timothy E. Power, Overland Park, KS
Clifford K. Stubbs, Lenexa, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director